IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10803 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL MANJIBHAI KALUBHAI - Petitioner(s)
Versus
VEERSANGBHAI SARDARBHAI & 4 - Respondent(s)

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Appearance :

MR DK ACHARYA for Petitioner(s) : 1,
None for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 1.2.1,1.2.2 - 4.
MR SONI, AGP for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 23/01/2007

ORAL JUDGMENT

1. The short facts of the case are that the petitioner purchased the agricultural land by

registered sale deed dated 2.8.1985 admeasuring 5 acres and 6 gunthas bearing Survey No.217 at Chitrasani. The proceedings before the Mamlatdar were initiated under Section 84C of the Bombay Tenancy and Agricultural Lands Act (hereinafter referred to as “the Act”) being Case No.122 of 1988. On 1.2.1990 Mamlatdar passed the order observing that the father of the petitioner was an agriculturist and holding the land, but at a distance of 18 kms from the land in question and, therefore, as the land, which was purchased is at a distance exceeding 8 kms, the sale was declared invalid and the land was forfeited to the Government for disposal under Section 84C(4) of the Act. The petitioner carried the matter in appeal before the Dy. Collector being Appeal No.32 of 1990 and the said appeal came to be dismissed on 13.8.1990. It appears that the revision was preferred being No.572 of 1990 and the said revision vide order dated 19.12.1994 came to be dismissed for default. The petitioner preferred Application No.35 of 1995 for restoration, which also came

to be dismissed as per the order dated 7.7.1995. Under these circumstances, the petitioner has approached this Court by preferring the present petition.

2. Heard Mr.Acharya, learned Counsel for the petitioner and Mr.Soni, learned AGP for the State authorities.

3. It may be recorded that when this petition was admitted on 25.7.1997, ad-interim relief came to be granted in terms of para 16(B), whereby the execution of the impugned orders were stayed and as a result thereof, the land is, up till now, not forfeited to the Government.

4. Upon hearing the learned Counsel appearing for both the sides, it appears that the issue is covered by the decision of this Court in case of **“Vishnubhai Ambalal Patel v. Shankerji Pujjaji Thakore and Anr”, reported in 2002(3) GLH, 78** and in view of the amendment, the proceedings under Section 84C of the Act shall stand abated.

5. Mr.Soni, learned AGP is not in a position to show that the decision would not apply to the facts of the present case. It may be recorded

that in respect to the another land, which was purchased by the petitioner at the very Village Chitrasani bearing Survey No.264 admeasuring 2 acres and 20 gunthas and bearing Survey No.215 admeasuring 3 acres and 16 gunthas, the proceedings were also initiated under Section 84C of the Act by the Mamlatdar and the transaction was declared illegal against which the appeal was preferred, which was also dismissed and in the revision before the Tribunal, the proceedings were declared abated by the Tribunal as per the decision dated 18.6.2002 in revision application No.601 of 1994.

6. In view of the same reasonings as per the decision referred to hereinabove of this Court read with the similar view taken by the Tribunal, the proceedings under Section 84C initiated by the Mamlatdar and its continuation thereof deserves to be declared as abated. Hence ordered accordingly. As a consequence thereof, the order passed by the Mamlatdar for declaring the sale as invalid would not survive further

and the said proceedings would stand abated.

7. The legality and validity of the impugned orders passed by the Mamlatdar and its confirmation thereof by the Dy. Collector and the Tribunal is not required to be examined as the proceedings would stand abated in view of the Gujarat Amending Act 3 of 2001.

8. The petition shall stand allowed to the aforesaid extent. Rule made absolute accordingly. Considering the facts and circumstances, there shall be no order as to costs.

23.1.2007 **(Jayant Patel, J.)**

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